

# Senate Study Bill 3176 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON FEENSTRA)

## A BILL FOR

1 An Act requiring the licensure of unsecured consumer loan  
2 lenders, and making civil penalties applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **536B.1 Title.**

2     This chapter shall be known and may be cited as the "*Iowa*  
3 *Unsecured Consumer Loan Act*".

4     Sec. 2. NEW SECTION.   **536B.2 Definitions.**

5     As used in this chapter, unless the context otherwise  
6 requires:

7     1. "*Annual percentage rate*" means the measure of the cost  
8 of credit, expressed as a yearly rate, that relates the amount  
9 extended to a consumer on an unsecured consumer loan to the  
10 amount and timing of payments made, as computed under the  
11 federal Truth in Lending Act.

12    2. "*Consumer*" means an individual who obtains an unsecured  
13 consumer loan.

14    3. "*Federal Truth in Lending Act*" means as defined in  
15 section 537.1302.

16    4. "*Finance charge*" means the amount payable by a consumer  
17 incident to or as a condition of the extension of an unsecured  
18 consumer loan but excluding other fees allowed under section  
19 536B.19.

20    5. "*Licensee*" means a person licensed pursuant to this  
21 chapter.

22    6. "*Regularly engaged in the business*" means any of the  
23 following:

24    a. Advertising to or making any other solicitation to a  
25 resident of this state to offer an unsecured consumer loan  
26 within this state.

27    b. Making three or more unsecured consumer loans within a  
28 calendar year to residents of this state.

29    7. "*Superintendent*" means the superintendent of banking  
30 within the banking division of the department of commerce.

31    8. "*Unsecured consumer loan*" is a loan in which all of the  
32 following are applicable:

33    a. The debt is incurred for a personal, family, or household  
34 purpose.

35    b. The debt is not less than five hundred dollars and not

1 more than one thousand five hundred dollars.

2     *c.* The debt is unsecured.

3     *d.* The lender holds the consumer's check or checks  
4 for a specified period, or obtains the consumer's written  
5 authorization to debit the consumer's account, other than as  
6 a result of default, under an agreement, either express or  
7 implied, for a specified period, before the lender does any of  
8 the following:

9         (1) Offers the check or checks for deposit or presentment.

10        (2) Exercises the consumer's written authorization to debit  
11 the consumer's account.

12     *e.* The debt is payable in biweekly, semimonthly, or monthly  
13 payment installments, in accordance with the dates that the  
14 consumer is scheduled to receive income payments.

15     *f.* The debt is subject to prepayment in whole or in part at  
16 any time without penalty.

17     *g.* The term length of the loan is for a maximum of twelve  
18 months.

19     9. "*Unsecured consumer loan lender*" means a person who  
20 advertises to make, solicit, or hold the person out to make an  
21 unsecured consumer loan to a consumer in this state.

22     Sec. 3. NEW SECTION. 536B.3 **Exemptions.**

23     This chapter shall not apply to any of the following:

24        1. A person who does business under the authority of a  
25 law of this state, or any other state while regulated by a  
26 state agency of that other state, or of the United States,  
27 relating to banks, savings banks, trust companies, savings and  
28 loan associations, profit sharing and pension trusts, credit  
29 unions, insurance companies, or receiverships if the person  
30 is regulated by the other law or under the jurisdiction of a  
31 court.

32        2. A person who is not regularly engaged in the business of  
33 making an unsecured consumer loan.

34        3. A person who is licensed pursuant to another law of this  
35 state to the extent that the person's activities are governed

1 by that law.

2 4. A consumer loan to the extent provided under chapter  
3 533D, 535C, 536, 536A, 536C, or 537.

4 Sec. 4. NEW SECTION. **536B.4 License — application — fees.**

5 1. Unless exempt under section 536B.3, a person shall not  
6 engage in the business of making an unsecured consumer loan  
7 to a resident of this state without first having obtained  
8 a license as an unsecured consumer loan lender from the  
9 superintendent.

10 2. An applicant for a license shall submit an application  
11 in writing, under oath, and in the form as prescribed by the  
12 superintendent. The application shall require any information  
13 that the superintendent determines is necessary.

14 3. At the time of making the application, the applicant  
15 shall pay to the superintendent a fee of one hundred dollars.

16 Sec. 5. NEW SECTION. **536B.5 Grounds for denial of license.**

17 The superintendent may deny a license for any of the  
18 following:

19 1. The person is insolvent.

20 2. The person has failed to demonstrate the financial  
21 responsibility, experience, character, and general fitness to  
22 command the confidence of the community and to warrant the  
23 belief that the business of the proposed unsecured consumer  
24 loan lender will be honestly and efficiently conducted.

25 3. The person has failed to pay the fee required under  
26 section 536B.4, subsection 3.

27 4. The person has failed to demonstrate that the person  
28 maintains at least twenty-five thousand dollars in unencumbered  
29 assets readily available for use in the conduct of the  
30 unsecured consumer loan business.

31 5. The person has, either knowingly or without the exercise  
32 of due care to prevent a violation, violated any provision of  
33 this Title XIII of the Code or any rule or order adopted or made  
34 pursuant to this Title XIII.

35 Sec. 6. NEW SECTION. **536B.6 Issuance of license — form —**

1 posting.

2 1. The superintendent shall issue a license to an applicant  
3 within ninety days after receiving a complete application  
4 unless the superintendent finds grounds for denying the  
5 license.

6 2. A license issued under this chapter shall be valid for a  
7 term of one year, beginning on January 1 and ending on December  
8 31.

9 3. A license issued under this chapter shall remain in full  
10 force until surrendered, revoked, or suspended.

11 4. A license issued under this chapter shall not be  
12 transferable or assignable.

13 5. A license issued under this chapter shall remain the  
14 property of this state. Upon the voluntary surrender of the  
15 license by the licensee or the revocation of the license by  
16 the superintendent, the licensee shall immediately deliver the  
17 license to the superintendent. Surrender or revocation of the  
18 license shall not affect any other liability of the licensee.

19 6. A license issued under this chapter shall be kept  
20 conspicuously posted at the office of the licensee and  
21 any licensed branch office where unsecured consumer loan  
22 transactions are conducted.

23 Sec. 7. NEW SECTION. 536B.7 License location.

24 1. A licensee shall designate the principal place of  
25 business where the licensee shall conduct unsecured consumer  
26 loan transactions pursuant to this chapter, which shall be  
27 indicated on the license as the licensed office location.

28 2. a. A licensee may obtain a branch office license from  
29 the superintendent for each branch office if the licensee wants  
30 to maintain more than one license location.

31 b. A licensee may obtain a branch office license by  
32 submitting an application in the form as prescribed by the  
33 superintendent and paying a fee of two hundred fifty dollars  
34 for each branch office license.

35 c. The superintendent shall issue a branch office

1 license indicating the address of the branch office if the  
2 superintendent determines that the applicant is qualified for  
3 the license and has paid the applicable fee.

4 3. A licensee shall not conduct unsecured consumer loan  
5 transactions under any name or at any place of business other  
6 than the name and location indicated on the license. However,  
7 a licensee may do any of the following:

8 a. Provide an unsecured consumer loan by mail or electronic  
9 means.

10 b. Make an accommodation to a consumer at any location upon  
11 a request by the consumer.

12 c. Conduct an administrative, loan servicing, or  
13 recordkeeping activity at any other location not open to the  
14 public provided that the superintendent is notified in advance  
15 of that activity.

16 4. A licensee may change the licensed office location or  
17 licensed branch office location by providing the superintendent  
18 with written notice, and the superintendent shall amend the  
19 license accordingly.

20 5. a. A licensee may conduct unsecured consumer loan  
21 transactions from within any licensed office location or  
22 licensed branch office location in which any other business not  
23 licensed pursuant to this Title XIII of the Code is solicited  
24 or engaged in, or in conjunction with any other business not  
25 licensed pursuant to this Title XIII.

26 b. If the superintendent determines that the other business  
27 is of such a nature or is being conducted in such a manner  
28 as to conceal an evasion or violation of this Title XIII of  
29 the Code or any rules adopted pursuant to this Title XIII,  
30 or is otherwise being conducted in an unlawful manner, the  
31 superintendent may restrict the licensee from conducting its  
32 business as an unsecured consumer loan lender in conjunction  
33 with that other business.

34 Sec. 8. NEW SECTION. 536B.8 **Renewal of license.**

35 1. A license issued pursuant to this chapter shall be

1 renewed annually. A licensee may renew a license by submitting  
2 an application in the form as prescribed by the superintendent  
3 no later than December 1 and paying a renewal fee of two  
4 hundred fifty dollars.

5 2. The superintendent may assess a late fee of ten dollars  
6 per day for applications submitted and accepted for processing  
7 after December 1.

8 3. The license of a licensee who has not filed a renewal  
9 application or paid the renewal fee by December 31 shall expire  
10 and the licensee shall not act as an unsecured consumer loan  
11 lender until the license is renewed or a new license is issued  
12 pursuant to this chapter.

13 Sec. 9. NEW SECTION. 536B.9 Grounds for denial of license  
14 renewal — suspension — revocation.

15 1. The superintendent may deny the renewal of a license or  
16 suspend or revoke a license if the superintendent determines  
17 any of the following:

18 a. The licensee is insolvent.

19 b. The licensee is not a person of honesty, truthfulness,  
20 and good character, as determined by rule.

21 c. The licensee has failed to pay the annual renewal fees.

22 d. The licensee has failed to file an annual report as  
23 required by this chapter when the report was due or within  
24 any extension of time provided by the superintendent for good  
25 cause.

26 e. The licensee has failed to demonstrate that the licensee  
27 maintains at least twenty-five thousand dollars in unencumbered  
28 assets readily available for use in the conduct of the  
29 unsecured consumer loan business.

30 2. The superintendent may also deny the renewal of a license  
31 or suspend or revoke a license if the superintendent determines  
32 a fact or condition exists which would have warranted the  
33 superintendent to refuse to originally issue the license.

34 Sec. 10. NEW SECTION. 536B.10 Records — examination by  
35 superintendent — fees.

1     1. A licensee shall keep such books, accounts, and records  
2 as the superintendent may require in order to determine whether  
3 the licensee is complying with the provisions of this chapter  
4 and with the rules adopted by the superintendent under this  
5 chapter.

6     2. A licensee shall preserve for at least two years after  
7 making the last entry on any unsecured consumer loan all books,  
8 accounts, and records pertaining to the loan. A licensee who  
9 uses an electronic recordkeeping system shall not be required  
10 to keep a written copy of the books, accounts, and records  
11 if the licensee is able to generate all of the information  
12 required under this section in a timely manner for examination  
13 or other purposes.

14    3. A licensee shall make any books, accounts, and records  
15 kept outside of this state available to the superintendent  
16 within three business days upon request by the superintendent.  
17 The superintendent may examine such books, accounts, and  
18 records at the office of the licensee located outside of this  
19 state.

20    4. A licensee shall provide to the superintendent or the  
21 superintendent's duly authorized representative access, during  
22 normal business hours, to the licensee's offices, files, safes,  
23 and vaults regarding the unsecured consumer loan business or  
24 regarding the subject matter of any examination, investigation,  
25 or hearing regarding the licensee.

26    5. *a.* A licensee required to provide the superintendent  
27 with access to its records pursuant to this section shall  
28 pay the cost of the examination or investigation. The  
29 superintendent shall determine the cost of the examination or  
30 investigation based upon the actual cost of the operation of  
31 the finance bureau of the banking division of the department of  
32 commerce, including the proportionate share of administrative  
33 expenses in the operation of the banking division attributable  
34 to the finance bureau as determined by the superintendent,  
35 incurred in the discharge of duties imposed upon the



1 superintendent by this chapter.

2     *b.* Failure to pay the examination or investigation fee  
3 within thirty days of receipt of demand from the superintendent  
4 shall subject the licensee to a late fee of up to five percent  
5 of the amount of the examination or investigation fee for each  
6 day the payment is delinquent.

7     Sec. 11. NEW SECTION. 536B.11 **Annual report by licensee.**

8     1. A licensee shall annually on or before April 1 file a  
9 report with the superintendent giving such relevant information  
10 as the superintendent reasonably may require concerning  
11 the business and operations during the twelve-month period  
12 ending the preceding December 31. Upon good cause shown by a  
13 licensee, the superintendent may extend the time for filing the  
14 report for a period not to exceed sixty days.

15     2. The annual report shall include a licensee's average  
16 annual percentage rate and average loan amount during the  
17 twelve-month period ending the preceding December 31.

18     3. *a.* If a licensee fails to file an annual report under  
19 this section on or before April 1 or within any extension  
20 of time provided by the superintendent for good cause, the  
21 superintendent or any person designated by the superintendent  
22 may examine the books, accounts, and records of the licensee,  
23 prepare the annual report, and charge the licensee an  
24 examination fee as established by rule. The fee shall be based  
25 on the actual cost of the examination or investigation.

26     *b.* If a licensee fails to file an annual report within the  
27 specified time and has not received an extension, the licensee  
28 shall be subject to a civil penalty not to exceed five dollars  
29 per day until the licensee has filed the annual report. The  
30 licensee shall pay the penalty to the superintendent within  
31 thirty days after the penalty is levied.

32     Sec. 12. NEW SECTION. 536B.12 **Surrender of license.**

33     A licensee may surrender an unsecured consumer loan license  
34 by delivering to the superintendent written notice that the  
35 license is surrendered. The surrender does not affect the

1 licensee's civil or criminal liability for acts committed  
2 prior to such surrender or entitle such licensee to a return  
3 of any part of the annual license fee. The superintendent  
4 may establish procedures for the disposition of the books,  
5 accounts, and records of the licensee and may require such  
6 action as deemed necessary for the protection of consumers that  
7 have unsecured consumer loans that are outstanding at the time  
8 of surrender of the license.

9     Sec. 13. NEW SECTION. 536B.13 Impairment of preexisting  
10 loan.

11     1. The revocation, suspension, surrender, expiration, or  
12 alteration of a license provided under this chapter shall not  
13 impair or affect any of the following:

14     a. The obligation of a preexisting unsecured consumer loan  
15 between an unsecured consumer loan lender and a consumer.

16     b. The ability or right of an unsecured consumer loan lender  
17 to service a preexisting unsecured consumer loan from outside  
18 this state.

19     2. If this chapter or any part of this chapter is modified,  
20 amended, or repealed, resulting in a cancellation or alteration  
21 of any unsecured consumer loan lender license or right of a  
22 licensee under this chapter, that cancellation or alteration  
23 shall not impair or affect the obligation of any preexisting  
24 contract between an unsecured consumer loan lender and any  
25 consumer.

26     Sec. 14. NEW SECTION. 536B.14 Restrictions.

27     1. A licensee shall not knowingly advertise, display,  
28 distribute, broadcast, or televise, or cause or allow to be  
29 advertised, displayed, distributed, broadcast, or televised, in  
30 any manner, any false, misleading, or deceptive statement or  
31 representation with regard to the rates, terms, or conditions  
32 of an unsecured consumer loan. To the extent applicable, all  
33 advertising shall comply with the advertising requirements  
34 specified in the federal Truth in Lending Act.

35     2. a. A licensee shall not provide an unsecured consumer

1 loan with an annual percentage rate greater than that provided  
2 in 10 U.S.C. §987(b), to any of the following:

3 (1) A member of the United States armed forces who is on  
4 active duty under a call or order that does not specify a  
5 period of thirty days or less.

6 (2) A person on active national guard duty or armed forces  
7 military reserve active duty.

8 (3) A dependent as defined in 10 U.S.C. §987(i).

9 b. A licensee shall not provide an unsecured consumer loan  
10 to a consumer unless the consumer has signed a statement, to  
11 be included as part of the loan, attesting to whether or not  
12 the consumer is a military member or a dependent as defined  
13 in 10 U.S.C. §987(i). The statement shall be in the form as  
14 prescribed by the superintendent by rule.

15 c. An unsecured consumer loan made in violation of 10 U.S.C.  
16 §987 is void and its terms and conditions unenforceable.

17 Sec. 15. NEW SECTION. 536B.15 Rules.

18 The superintendent may adopt rules to administer this  
19 chapter.

20 Sec. 16. NEW SECTION. 536B.16 Noncompliance.

21 1. An unsecured consumer loan that is provided by a  
22 person who is required to be licensed under this chapter but  
23 who is not licensed is void and its terms and conditions  
24 unenforceable.

25 2. Except as provided in subsection 1 and section 536B.14,  
26 subsection 2, failure to comply with this chapter shall not  
27 affect the validity or enforceability of an unsecured consumer  
28 loan.

29 Sec. 17. NEW SECTION. 536B.17 Disclosures.

30 1. To the extent applicable, a licensee shall comply with  
31 the disclosure requirements as set forth in the federal Truth  
32 in Lending Act.

33 2. A licensee shall conspicuously display a sign printed  
34 in at least twelve-point bold font type at each desk in the  
35 licensed office and licensed branch office where unsecured

1 consumer loan transactions are conducted with the following  
2 disclosure:

3 Notice: Before signing any loan documents or otherwise  
4 committing to a loan, you may take copies of those documents  
5 away from the unsecured consumer loan lender's place of  
6 business for review.

7 3. A licensee providing electronic unsecured consumer loans  
8 shall conspicuously display the following disclosure on the  
9 licensee's internet site:

10 Notice: Before signing any loan documents or otherwise  
11 committing to a loan, please read our terms and conditions  
12 carefully.

13 4. A licensee who fails to provide disclosures as required  
14 under this section shall be subject to a civil penalty not to  
15 exceed three hundred dollars for each violation.

16 Sec. 18. NEW SECTION. **536B.18 Finance charge.**

17 1. A licensee may charge a finance charge on an unsecured  
18 consumer loan at a rate not to exceed twenty percent of the  
19 first five hundred dollars loaned, plus seven and one-half  
20 percent of any amount in excess of five hundred dollars loaned.  
21 The finance charge shall be deemed fully earned as of the date  
22 of the unsecured consumer loan transaction and shall not be  
23 refundable or prorated in the event of prepayment.

24 2. This section does not authorize the compounding of a  
25 finance charge.

26 Sec. 19. NEW SECTION. **536B.19 Other fees and charges.**

27 1. In addition to a finance charge authorized under section  
28 536B.18, a licensee may collect any of the following fees or  
29 charges:

30 a. A monthly maintenance fee on each unsecured consumer loan  
31 at a rate not to exceed eleven dollars and twenty-five cents  
32 per one hundred dollars loaned. Such fee shall be refundable  
33 to the consumer on a pro rata basis upon prepayment in full  
34 prior to the maturity date of the loan.

35 b. A delinquency charge if an installment is not paid in

1 full within seven days, equal to five percent of the amount of  
2 the installment.

3 c. Court costs and reasonable attorney fees if the unsecured  
4 consumer loan is referred for collection to an attorney other  
5 than an employee of the licensee.

6 d. A dishonored check service fee if a licensee receives  
7 a check, draft, negotiable order of withdrawal, or similar  
8 instrument that is not paid or is not honored by a depository  
9 institution, equal to the actual charges assessed by the  
10 depository institution.

11 2. A licensee shall not directly or indirectly charge,  
12 contract for, or receive any other amount in connection with an  
13 unsecured consumer loan except as provided in this chapter.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with  
16 the explanation's substance by the members of the general assembly.

17 This bill creates new Code chapter 536B to require licensure  
18 of persons who wish to provide unsecured consumer loans to  
19 residents of the state.

20 The bill defines "unsecured consumer loan" to mean a loan  
21 that is incurred for a personal, family, or household purpose,  
22 is not less than \$500 and not more than \$1,500, is unsecured,  
23 the lender holding the consumer's check for a specified  
24 period prior to deposit or presentment or obtains written  
25 authorization to debit the consumer's account for a specified  
26 period prior to debiting the consumer's account, is payable in  
27 specified payment installments, is subject to prepayment in  
28 whole or in part at any time without penalty, and is for a term  
29 length of a maximum of 12 months.

30 The bill exempts the following persons from the requirements  
31 of the bill: a person who does business under any law relating  
32 to banks, savings banks, trusts, savings and loan associations,  
33 profit sharing and pension trusts, credit unions, insurance  
34 companies, or receiverships, a person who is not regularly  
35 engaged in the business of making unsecured consumer loans,

1 as defined in the bill, a person who is licensed pursuant to  
2 another Code chapter to the extent that the person's activities  
3 are governed by that Code chapter, or a consumer loan provided  
4 under Code chapter 533D, 535C, 536, 536A, 536C, or 537.

5 The bill prohibits a person from engaging in the business  
6 of making unsecured consumer loans to a resident in this state  
7 without first obtaining a license from the superintendent  
8 of the banking division in the department of commerce. An  
9 applicant for a license must submit an application in the form  
10 prescribed by the superintendent and pay a fee of \$100.

11 The bill allows the superintendent to deny a license if  
12 the applicant is insolvent, has failed to demonstrate the  
13 financial responsibility, experience, character, and general  
14 fitness required, as determined by rule, has failed to pay the  
15 \$100 fee, or has failed to demonstrate the availability of at  
16 least \$25,000 in assets for use in the conduct of the unsecured  
17 consumer loan business.

18 The bill requires the superintendent to issue a license  
19 within 90 days of receiving an application unless grounds exist  
20 for denying it. A license is valid for one year, from January  
21 1 to December 31, remains in full force until surrendered,  
22 revoked, or suspended, and is not transferable. A license  
23 remains the property of the state and must be immediately  
24 returned to the superintendent if a licensee voluntarily  
25 surrenders it. A license must be posted conspicuously in the  
26 office of the licensee and any licensed branch offices.

27 The bill requires a licensee to designate the principal  
28 place of business to be indicated on the license. A licensee  
29 wishing to maintain more than one place of business may  
30 obtain a branch office license by submitting an application  
31 as prescribed by the superintendent and paying a \$250 fee.  
32 A licensee is prohibited from conducting unsecured consumer  
33 loan transactions under any name or location different than  
34 what is indicated on the license, provided, however, that  
35 a licensee may provide loans by mail or electronic means,

1 make an accommodation to a consumer at any location upon  
2 the consumer's request, or conduct an administrative, loan  
3 servicing, or recordkeeping activity at any other location if  
4 the superintendent is notified. A licensee can change the  
5 license location by giving the superintendent written notice to  
6 amend the license.

7 The bill authorizes a licensee to conduct unsecured consumer  
8 loan transactions from any licensed office location where  
9 other business activities unrelated to unsecured consumer loan  
10 lending occur. However, the superintendent may prohibit a  
11 licensee from conducting business as an unsecured consumer  
12 loan lender in conjunction with, or at the location of, such  
13 other business if the other business is being conducted in an  
14 unlawful manner.

15 The bill allows a licensee to obtain a renewal license by  
16 submitting an application as prescribed by the superintendent  
17 no later than December 1 and paying a \$250 fee. A renewal  
18 application submitted after December 1 is subject to a \$10 late  
19 fee for each day it is late. A license of a licensee who has  
20 not filed a renewal or paid the fee by December 31 expires.

21 The bill allows the superintendent to deny a renewal license  
22 or suspend or revoke a license if the licensee is insolvent,  
23 is not a person of honesty, truthfulness, and good character,  
24 as determined by rule, has failed to pay the renewal fee, has  
25 failed to file an annual report, or has failed to demonstrate  
26 the availability of at least \$25,000 in assets for use in  
27 the conduct of the business. The superintendent may deny a  
28 renewal license or suspend or revoke a license if a fact or  
29 condition exists to have warranted the superintendent to refuse  
30 to originally issue the license.

31 The bill requires a licensee to keep records for the  
32 superintendent to determine whether the licensee is complying  
33 with the bill for at least two years. A licensee must make  
34 all records kept outside of the state available to the  
35 superintendent within three business days upon request. A

1 licensee must provide the superintendent with access to  
2 the licensee's records during normal business hours. A  
3 licensee subjected to an examination of its records by the  
4 superintendent must pay a fee determined by the actual cost of  
5 the examination. A licensee who fails to pay the fee within 30  
6 days must pay a late fee of up to 5 percent of the amount of the  
7 fee for each day the payment is delinquent.

8     The bill requires a licensee to provide the superintendent  
9 with an annual report on or before April 1, which may be  
10 extended for no more than 60 days upon showing good cause. The  
11 report must include the licensee's average annual percentage  
12 rate, as defined in the bill, and average loan amount during  
13 the 12-month period ending the preceding December 31. The  
14 superintendent may examine the records of a licensee who has  
15 failed to file an annual report, prepare the annual report, and  
16 charge a fee based on the cost of the examination. A licensee  
17 who has failed to file an annual report without an extension is  
18 also subject to a civil penalty not to exceed \$5 for each day  
19 until the report is filed, which must be paid within 30 days of  
20 being charged.

21     The bill provides that the revocation, suspension,  
22 surrender, cancellation, or alteration of a license will not  
23 impair or affect the validity of a preexisting unsecured  
24 consumer loan or the ability of a lender to service a  
25 preexisting loan outside of this state.

26     The bill restricts a licensee from advertising in any false  
27 or misleading manner with regards to the rates or terms of an  
28 unsecured consumer loan and requires a licensee to comply with  
29 the advertising requirements in the federal Truth in Lending  
30 Act. A licensee cannot provide an unsecured consumer loan to a  
31 military member or dependent, as defined in 10 U.S.C. §987(i),  
32 with an annual percentage rate greater than that provided in  
33 10 U.S.C. §987(b). Before a licensee may provide a loan,  
34 the consumer must sign a statement attesting to whether or  
35 not the consumer is a military member or dependent. A loan



1 made in violation of 10 U.S.C. §987 is void and its terms and  
2 conditions unenforceable.

3 The bill provides that an unsecured consumer loan provided  
4 by a person who is required to be licensed under new Code  
5 chapter 536B but who is not licensed is void and its terms and  
6 conditions unenforceable. However, any other noncompliance  
7 with new Code chapter 536B, except pertaining to military  
8 members and their dependents, will not affect the validity of  
9 a loan.

10 The bill requires a licensee to comply with the disclosure  
11 requirements in the federal Truth in Lending Act. A licensee  
12 must display a disclosure sign, as described in the bill, at  
13 each desk in the licensed office and each licensed branch  
14 office and on the licensee's internet site if the licensee  
15 provides electronic unsecured consumer loans. A licensee who  
16 fails to do so is subject to a civil penalty not to exceed \$300  
17 for each violation.

18 The bill allows a licensee to charge a finance charge, as  
19 defined in the bill, on an unsecured consumer loan at a rate  
20 not to exceed 20 percent of the first \$500 loaned, plus 7.5  
21 percent of any amount in excess of \$500 loaned. However, a  
22 licensee is not permitted to compound a finance charge. In  
23 addition to this, a licensee may collect a monthly maintenance  
24 fee, a delinquency charge, court costs and reasonable attorney  
25 fees, and a dishonored check service fee, as described in  
26 the bill. A licensee is prohibited from collecting any  
27 other charges or fees in connection with conducting unsecured  
28 consumer loan transactions.